## Program Overview

The Accessory Dwelling Unit Loan Program is administered by the City of Chula Vista ("***City***") Housing and Homeless Services Department pursuant to Resolution Nos. 2022-101 and 2022-102 and is designed to assist Low and Moderate Income Households with the construction or substantial repair of an accessory dwelling unit ("***ADU***") or Junior Accessory Dwelling Unit ("***JADU***") within Chula Vista.

Loans will only be awarded to credit- and income-qualified candidates for eligible projects. Eligible projects include new construction of an ADU or the substantial repair of an existing unpermitted ADU built before 2020. Each Borrower can receive no more than one loan, in a maximum amount not to exceed $100,000. Loan amounts will be determined on an individual basis based on project cost, financing gap, loan-to-value ratio, and other underwriting criteria.

In connection with the loan, Borrowers will sign a promissory note (the "***Note***") secured by a deed of trust in favor of the City (the "***Deed of Trust***"), and a restrictive covenant that requires the ADU to be rented at an affordable rent to a qualified Lower Income Household (the "***Regulatory Agreement***", and together with the Note and Deed of Trust, the "***Loan Documents***"). The Loan Documents will have a term of fifteen (15) years. The loan shall be deferred as long as the Borrower remains in compliance with the program requirements and no repayment provisions are triggered. If the Borrower remains in compliance for the full 15-year term, the loan and any accrued interest shall be forgiven at the end of the term.

All work performed in connection with this program must be performed by licensed and insured contractors selected through a competitive process. Loan proceeds will be disbursed directly to contractors as reimbursement for costs incurred.

## Purpose and Objectives

The purpose of the ADU Loan Program is to increase the supply of housing available for Lower Income Households while also assisting Low and Moderate Income homeowners in the improvement of their property.

## General Definitions

***ADU*** has the same meaning as "Accessory Dwelling Unit" set forth in Chula Vista Municipal Code Section 19.58.022(B).

***Affidavit*** means a written statement filed in connection with the program made under oath and subject to penalties of perjury.

***Affordable Rent*** shall have the meaning set forth in California Health and Safety Code Section 50053. Affordable Rent for a Lower Income household shall not exceed 30% of 60% of Area Median Income.

***Applicant*** means any person on title within the household who applies for a Loan through the ADU Loan Program.

***Assets*** means cash or a non-cash item that can be quickly converted to cash without penalty. Assets exclude necessary personal property.

***Borrower*** means a homeowner, and any successors or assigns, who is party to a loan agreement with the City pursuant to the ADU loan program.

***Household*** means an individual or group of persons residing together in the same dwelling unit.

***Income*** means the gross amount of all income, from any source, for all mortgagors and adult household members that is anticipated to be received during the coming twelve (12) months.

***JADU*** has the meaning as "Junior Accessory Dwelling Unit" set forth in Chula Vista Municipal Code Section 19.58.023(A).

***Lower Income Household*** shall have the same meaning as "lower income households" set forth in California Health and Safety Code Section 50079.5.

***Moderate Income Household*** shall have the same meaning as "persons or families of low or moderate income" as set forth in California Health and Safety Code Section 50093.

***Program Administrator*** means the City of Chula Vista Department of Housing and Homeless Services and its staff.

***Tenant Household*** means a household residing in an ADU subject to a regulatory agreement pursuant to the ADU Loan Program.

## Eligible Projects

Eligible projects include the following:

- New construction of an attached or detached ADU
- New construction of a JADU with private kitchen and sanitation facilities.
- Correction of a violation of any building standard for an ADU or JADU built before January 1, 2020, in accordance with California Health & Safety Code Section 17980.12.
- Modification of an ADU or JADU for the purposes of accommodating persons with disabilities.

Ineligible projects include the following:

- Construction or repair of a primary home or addition
- Correction of a violation of any building standard for an ADU or JADU built on or after January 1, 2020.
- New construction or correction of a violation of any building standard for a JADU with shared kitchen or sanitation facilities.
- ADU loans being used to construct short-term rental units.

## Borrower and Tenant Household Income Requirements

The Borrower's household must be certified once, at the time of loan issuance, as being at or below the income limit for a Moderate Income Household. The Tenant Household must be certified at move-in and annually thereafter as being at or below the applicable annual income limit for a Lower Income Household.

Income limits are published and adjusted annually. The 2023-24 income limits are shown below for reference.

**Table 1: 2023-24 Income Limits**

| | Household Size | | | | |
|---|---|---|---|---|---|
| **Income Category** | **1** | **2** | **3** | **4** | **5** |
| Lower Income (Tenant Household) | 77,200 | 88,200 | 99,250 | 110,250 | 119,100 |
| Moderate Income (Homeowner) | 98,100 | 112,100 | 126,150 | 140,150 | 151,350 |

If a property's title includes non-household members as owners, the income of such non-household members must be included in the calculation of Borrower's total household income.

Gross income includes all sources of taxable and non-taxable income, including salary, base pay, overtime and/or double-time compensation, part-time earnings, self-employment income, bonuses, commissions, dividends, interest, royalties, pensions, veterans administration compensation, alimony, child support, survivor benefits, foster care support, adoption care support, public assistance, social security benefits, unemployment compensation, income received from a trust, income received from business activities, bank accounts, investments, recurring contributions or gifts regularly received from entities or persons not residing in the dwelling, and any other source of income not listed above. Gross income is income before taxes, withholdings, or deductions. Gross income from self-employment shall mean net revenue after business expenses, as verified through tax returns or other documentation as appropriate.

The Borrower's income shall be verified by the Program Administrator. The Borrower must provide supporting documentation of income upon request. All documents must be current within 120 days of the loan closing. Non-disclosure of any material fact or misrepresentation of information will result in permanent disqualification of the Applicant. Tenant Household's income shall be certified by the Borrower, subject to review and verification by the Program Administrator.

**Cooling-off Period for Declined Applications**

If an Applicant is denied for exceeding the income limit, there will be a 12-month cooling-off period before the Applicant may reapply for a loan through the ADU Loan Program. The Program Administrator reserves the right to deny re-applications if it is determined that the Applicant's household composition or income was altered for the primary purpose of meeting the eligibility requirements of this program.

## Tenant Household Rent Limits

In accordance with the rent limits for Lower Income Households set forth in California Health and Safety Code Section 50053, the ADU must be rented at 30% of 60% of Area Median Income (AMI), as may be adjusted annually. The 2023-24 rent limits are shown below for reference.

**Table 2: 2023-24 Rent Limits**

| | Number of Bedrooms | | | | |
|---|---|---|---|---|---|
| | **0 (studio)** | **1** | **2** | **3** | **4** |
| Lower Income limit (30% of 60% of AMI) | 1,226 | 1,401 | 1,576 | 1,752 | 1,892 |

An allowance for utilities must be subtracted from this rent limit, depending on which utilities the Tenant Household is responsible for paying. San Diego County's Utility Allowance schedule, available here, will be used as the basis for determining utility allowance amounts. The Program Administrator will provide guidance in calculating the correct utility allowance and rent limit for the ADU.

Under no circumstances may the ADU or any portion of the property be used as a short-term rental, as defined in Chula Vista Municipal Code Section 5.683.030, during the term of the Regulatory Agreement.

## Prioritization of Loans

First priority in loan funds will be offered to participants in the City's first-time homebuyer program. Remaining funds will be committed to qualified Applicants on a first-come, first-served basis. If applications are received after all funds are committed, the Program Administrator may establish a priority waiting list system for potential future funding rounds based on first-time home buyer status, creditworthiness, project readiness, loan amount, and other relevant criteria.

## Loan Amount

The maximum loan amount per project shall be $100,000 for new construction of an ADU and $50,000 for construction of a JADU or correction of a violation of building standards of an ADU or JADU. Loan amounts will be determined on an individualized basis based on cost, financing gap, loan-to-value considerations, and other underwriting criteria. To determine the loan amount, Applicants must provide a preliminary budget with the requested loan amount and the estimated total project cost, including construction, permit fees, design costs, and an allowance for contingencies. If the project is to repair an existing unpermitted ADU, the City Code Enforcement Division must perform an inspection to determine the necessary scope of repairs. If the project cost is greater than the maximum City loan amount, Applicants must demonstrate sufficient resources to complete the construction of the project. If approved, the budget must be finalized in consultation with the selected contractor, other project lenders (if applicable), and the Program Administrator.

## Loan Terms

Loans issued through this program shall have the following terms:

- **Interest.** Loans accrue 3% simple interest.
- **Term of Loan and Regulatory Agreement.** The loan and regulatory agreement shall have a term of 15 years.
- **Deferral and Loan Forgiveness.** Payments are deferred for the full 15-year term as long as the Borrower maintains compliance with the regulatory agreement. The loan and all accrued interest

will be forgiven after 15 years if the ADU has been rented in compliance with the regulatory agreement for the entire 15-year term.

- **Early Termination.** Borrowers may choose to terminate their participation in the program at any time by paying back the loan principal and accrued interest. There is no prepayment penalty. In addition, the following events shall be deemed as cause for early termination, and the loan shall become immediately due and payable in full:
    - Transfer or sale of the property, unless approved in writing by the Program Administrator.
    - Uncured default by Borrower under the City loan documents or any encumbrance to the property senior in position to the City's deed of trust or regulatory agreement.
    - Discovery of misrepresentation or fraud in connection with any aspect of the ADU Loan Program.
    - Cash-out refinancing of the primary mortgage, refinancing with an adjustable rate mortgage, or a refinancing not reviewed and approved by the Program Administrator.
    - Any encumbrance recorded against the property without the express written approval of the Program Administrator.
    - Failure to maintain the ADU in decent, safe, and sanitary condition.

Additional terms apply.

## Applicant Screening and Loan Underwriting Guidelines

The following guidelines shall apply when reviewing loan applications:

- Value of loan may not exceed 50% of the total value of the property;
- Applicant must demonstrate ability to pay for any project costs that exceed value of City loan;
- Applicants must have a credit score of 640 or greater;
- Applicants with a foreclosure or bankruptcy in which the final determination occurred within the last seven years will be denied;
- Monthly household debt payments, including estimated cost of ADU loan payments on a 15-year amortization schedule, may not exceed 45% of gross monthly income;
- Property's title must be free of mechanic's liens or other unresolved encumbrances that indicate a credit risk or obstacle to project completion;
- Applicants may not have any outstanding collections, judgments, or delinquent property taxes;
- Child support and alimony payments must be current and with no arrears;
- Applicant must have owned the primary home for a period of at least one year;
- Applicant may not own any other real property;
- Applicant must provide proof of homeowner's insurance; and
- Applicant must demonstrate proof of legal residency.

The City reserves the right to modify these underwriting standards on a case-by-case basis to account for individualized risk factors.

## Subordination Policy

Staff will only consider subordinating the City lien to refinancing of first liens that are being proposed for purpose of obtaining a conventional fixed rate loan. If approved, all subordination fees shall be paid by the property owner.

## ADU Standards

ADU projects being financed through ADU Program Loans must meet the requirements and regulations in the City's ADU Ordinance (CVMC 19.58.022) and all other applicable law.

## Eligible Expenses

Eligible expenses include the following:

- Site preparation
- Architectural designs
- Permit fees
- Soil tests
- Development Impact fees
- Property survey
- Energy reports
- Construction
- Materials

Ineligible expenses include:

- Interior furnishing
- Moving expenses
- Landscaping
- For existing ADUs or JADUs, repairs not related to correction of a violation of a building standard.
- Future expenses not yet incurred

## ADU Loan Program Process

Applicants initiate the processing by submitting an application, including all supporting documentation regarding income and project scope. Once an application is received and an initial determination is made that the application is complete and meets program requirements, the following steps shall be taken:

**Preliminary City Loan Commitment**

If the application meets all initial requirements, the City shall provide a written loan approval letter to Applicant, indicating the loan amount, any loan contingencies, and next steps.

**Contractor Selection and Budget Finalization**

Applicants must solicit at least three contractor bids for the work to be performed. The Applicant shall select the winning bid, subject to the City's review and approval.

The selected contractor must be approved by the City by providing the following documents:

1) State Contractor's License
2) City of Chula Vista Business License
3) Insurance, including:
   (a) General Liability insurance in the amount of $2 Million dollars (Additional Insured Endorsement designating "City of Chula Vista, its elected officials, employees and volunteers");
   (b) Proof of Commercial Auto Liability insurance (any auto) in the amount of $1 Million dollars; and
   (c) Worker's Compensation insurance.

After selecting a contractor, the Applicant will generate a final development budget and timeline, in consultation with the contractor and the Program Administrator. The budget shall include all hard costs, soft costs, and an allowance for contingencies. The allowance for contingencies shall be 10% of the total development cost unless otherwise authorized by the Program Administrator.

**Loan Document Execution**

Prior to loan document execution, the Applicant may be required to provide a preliminary title report for the Program Administrator's review and approval.

The Note, Deed of Trust, Regulatory Agreement, and other necessary documents shall be signed by all signatories. The Deed of Trust, Regulatory Agreement, and any other recordable documents shall be recorded against the property in the official records of the County of San Diego.

Separately, the Applicant (now the Borrower) shall enter into a contract with the selected contractor. The City shall not be a party to any agreement with a contractor, and shall incur no liability as a result of such contract. Borrower shall sign an Affidavit of Responsibility to indemnify, hold harmless and release the City from any claims or losses for any disputes that might arise from the work funded by the loan or the City's making of the loan. This includes any dispute between the borrower and a contractor regarding the quality of work and materials.

After the loan documents have been executed and made effective, and all other conditions have been satisfied, the City will issue a notice to proceed to the selected contractor.

**Loan Disbursement**

Loan funds shall be disbursed for expenses incurred. Funds shall be disbursed to the contractor or vendor on behalf of the homeowner.

To receive funds, the contractor or vendor must submit a pay application and all backup invoices. If the homeowner has incurred costs for reimbursement, he or she may submit a written draw request to the City containing a signed cover letter, an itemized accounting of the amount requested, and all backup invoices.

**Project Management**

During the course of construction or repair, the Borrower shall hold regular meetings, including draw meetings if applicable, with the Program Administrator and contractor to review pay applications and construction progress. Contractors shall issue conditional lien waivers as construction progresses.

The Planning, Building, and Code Enforcement divisions within the Development Services Department shall be engaged as needed.

*All change order requests must obtain the Program Administrator's advance written approval.*

It shall be the Borrower's responsibility to pay for any cost overruns beyond the approved budget amount.

**Leasing**

The City's consultation and approval is required prior to leasing out a completed ADU. Leasing to relatives is permitted, provided that the Tenant Household meets income and other eligibility requirements for the ADU. The City may review the lease agreement to ensure compliance.

Borrower may determine appropriate screening criteria when selecting a Tenant Household, subject to the Program Administrator's review and approval.

**Annual Compliance Monitoring**

Upon initial lease-up and annually each year during of the term of the loan, the Borrower shall certify to the City their occupancy of the main residence and the affordability of the rented ADU. The Borrower shall submit such documentary proof as requested by the City regarding occupancy of the primary household and the renter's gross household income annually.

**Loan Servicing**

The Program Administrator will perform compliance monitoring and loan servicing tasks. Fees may be assessed to the Borrower in exchange for services such as payoff demand letters and compliance monitoring.

## Right to Modify

The Program Administrator reserves the right to waive or modify these program guidelines on a case-by-case basis if it determines that such modification is consistent with the authorized program goals and is in the best interest of the City.